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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,135	11/25/2003	Robert Kronenberger	00130P0146US	6333
32116	7590	03/24/2006	EXAMINER	
WOOD, PHILLIPS, KATZ, CLARK & MORTIMER 500 W. MADISON STREET SUITE 3800 CHICAGO, IL 60661			SUTTON, ANDREW W	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/721,135	<b>Applicant(s)</b> KRONENBERGER, ROBERT	
	<b>Examiner</b> Andrew W. Sutton	<b>Art Unit</b> 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 29 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-3 and 5-21 have been considered but are moot in view of the new ground(s) of rejection.

Heyward teaches a hat with information around all sides of the hat as previously discussed. This teaching can be applied to conventional baseball caps as the applicant claims. The information may not claim the specific information as the applicant claims, the device of Heyward is capable of performing such a function and it would have been obvious to one of ordinary skill in the art to use the hat to identify various sporting events, teams, etc baseball caps are already used to identify various teams, events, and organizations.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-3 and 5-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant failed to disclose the

negative limitation of no brim projecting from the left or right sides in the originally filed specification.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 7, 9, 11, and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heyward (US 6,243,877) in view of Loeffelholz (US 6,175,963). Heyward discloses a display hat shown in Figure 1 that includes indicia located around the hat that can be adorned on a wearers head including external surfaces having a front, rear, right, and left sides. Heyward does not explicitly state that the crown is divided into the eight octants as claimed by the applicant. However, the device of Heyward is capable into being divided into octants as no structural limitation is being associated with the divisions. Further, The applicant does not state any criticality or unexpected results as to why the applicant chose that the headwear must be divided into octants. Thus, the examiner feels that this choice was a design choice and one of ordinary skill in the art would have divided the hat of Heyward into octants though routine experimentation. Figure 1 shows that indicia "Carolina Games" on the bill of the hat. The examiner interprets this to be a sporting event. Since the indicia is located radially around the hat, the examiner feels this includes the indicia would be located on

the front/left side or front/right side octants. The applicant states that the placards can include multiple sports teams (Col. 2 lines 27-28). While, Heyward does not specifically state that the team logos are related to the sporting even listed on the bill, the cap is capable of serving that function. Heyward does not disclose a hat with no bills projecting from the left or right side of the cap and configured as a baseball style cap. Loeffelholz illustrates a "baseball style cap" in figure 2 that has logo's 32 placed around the cap. It would have been obvious to one of ordinary skill in the art to combine the teachings of Heyward and Loeffelholz to provide a cap with information located around the cap as well as only one bill. Further, it is commonly known in the art to structure a hat with only one bill.

As to claims 2 and 3, the sports logos on the placards are located radially around the hat as stated above. When viewing the hat from the front elevation perspective, only 1 or 2 logos are identifiable or even can be seen, from the front elevation perspective. Therefore the entirety of the second information is not identifiable or viewable.

As to claim 7, Heyward teaches that sports logos can be used to identify the sports teams (Col. 1 line 38).

As to claim 9, Heyward teaches a crown of a cap having an inverted cup shape in Fig. 1.

As to claim 11, Heyward teaches that advertising logos can be used on the headwear as well as sports logos (Col. 2 line 15).

As to claim 13 and 14, Heyward does not teach the logos are skewed in arrangement as claimed in claim 8. However, the applicant states no unexpected results or criticality from the skewed logo, thus the examiner interprets this as a design choice and one of ordinary skill in the art would have skewed the logos through routine experimentation.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heyward (US 6,243,877) in view of Park (US 6,408,443). Heyward teaches the device substantially above. However, Heyward does not teach the use a hat that is made in the form of a visor. Park teaches (Fig. 2) that hats including logos 11 can have an opening 1 in the crown area. It is commonly known in the art to make hats in the form visors. It would have been obvious to one of ordinary skill in the art to combine the teaching of Heyward and Park to give a hat that would allow for increase airflow.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heyward (US 6,243,877) in view of Pinkus (US 5,556,696). Heyward teaches the device substantially above. However, Heyward does not teach the use of embroidery as the method of applying the second information. The applicant states no unexpected results from the use of embroidery in the application of the information. It is commonly known in the art to use embroidery 110 in the applicant of information to hats as taught by Pinkus (Fig. 1).

Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heyward (US 6,243,877) in view of Armstrong (US 5,584,076). Heyward teaches the device substantially above. However, Heyward does not teach the use of an adjustable

strap along with an opening with a logo provided on the adjustable portion of the hat. Armstrong illustrates in Fig. 1 an opening in the back of the hat with an adjustable strap 20 located across the opening. A logo 46 is located on the hat. Armstrong does not explicit state that the logo identifies an event. However, the applicant does not state any unexpected results or criticality as to why the logo must identify an event. The examiner feels that the logo of Armstrong is capable of identifying an event. It would have been obvious to one of ordinary skill in the art to combine the opening and strap of Armstrong to the hat of Heyward to provide adjustability in the hat to allow for the ability of wearer's with multiple head sizes.

Claims 5,6,8 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heyward (US 6,243,877) in view of Scott (US 6,185,746). Each claim of the applicant claim limitations as to the placement of information relating to or not relating to a sporting event. Heyward teaches the use of logos in various locations around the hat. However, Heyward does not teach the limitations as claimed by the applicant relating to the specific type of information such as an all-star event. Scott illustrates (Figs. 1 and 2) a shirt 36 with a chart 10 including many sets of information regarding a sporting event. The applicant states to criticality or unexpected results in the information being placed on the hat as claimed. Therefore, the examiner interprets the limitations claimed to be a design choice. It would have been obvious to one of ordinary skill in the art to combine the teachings of Heyward and Scott and add various data sets of sports information from a shirt and apply it to various locations around a cap as taught by the applicant through routine experimentation.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heyward (US 6,243,877) in view of Gulack (US 4,416,633). Heyward teaches the device substantially above. However, Heyward does not teach multiple logos in one of the octants. The applicant states to criticality or unexpected results in the multiple logos being placed in one octant as claimed. Therefore, the examiner interprets the limitations claimed to be a design choice. Gulack teaches a hat in figure 7 including multiple indicia being located in one octant if the hat were to be broken in to octants. It would have been obvious to one of ordinary skill in the art to combine the teachings of Gulack and Heyward as the placement of indicia on the hat would have been found through routine experimentation.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of




the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew W. Sutton whose telephone number is (571) 272-6093. The examiner can normally be reached on Monday - Friday 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

20 March 2006  
AWS

  
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